

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA (WILKES-BARRE)**

In re:

Elizabeth Caymares,

Debtor.

Chapter 13

Case No.: 23-02305 (MJC)

**DECLARATION IN SUPPORT OF CATERPILLAR FINANCIAL SERVICES
CORPORATION’S (I) RESPONSE TO TRUSTEE’S MOTION FOR
RECONSIDERATION AND OBJECTION TO ORDER GRANTING LEAVE TO
AMEND CLAIM AND (II) MOTION FOR LEAVE TO FILE CLAIM AFTER BAR
DATE**

B. Erin O’Quinn, being duly sworn, deposes and says:

1. I am a Litigation Paralegal for Caterpillar Financial Services Corporation (“CAT Financial”). I submit this declaration in support of CAT Financial’s (I) Response to Trustee’s Motion for Reconsideration and Objection to Order Granting Leave to Amend Claim and (II) Motion for Leave to File Claim After Bar Date (the “Response”). The information set forth in this Declaration is based upon my personal knowledge and/or the business records of CAT Financial maintained in the regular course of its business.

2. As set forth more fully in CAT Financial’s proof of claim filed in this case as Claim No. 7 (the “Proof of Claim”), on or about August 29, 2022, the Debtor executed that certain Continuing Guaranty (CFSC and CFCA as Beneficiaries) in favor of Caterpillar Financial Services Corporation and Caterpillar Financial Commercial Account Corporation (the “Guaranty”). Proof of Claim, Ex. A.

3. Pursuant to the Guaranty, the Debtor unconditionally guaranteed prompt payment and performance of all obligations of Konstruction Built LLC (“Konstruction”) to CAT Financial.

4. Konstruction is indebted to CAT Financial pursuant to that certain Installment Sale Contract No. 001-7008633 dated August 29, 2022 (the “Security Agreement”) with Holt Texas, LTD (“Holt”), subsequently assigned to CAT Financial, pursuant to which the CAT Financial financed the Konstruction’s purchase of certain equipment, namely, (i) 259D3 Caterpillar Compact Track Loader (S/N CW920447), (ii) 259D3 Caterpillar Compact Track Loader (S/N CW920423), (iii) 259D3 Caterpillar Compact Track Loader (S/N CW920426), (iv) 259D3 Caterpillar Compact Track Loader (S/N CW920442), (v) 259D3 Caterpillar Compact Track Loader (S/N CW 920445), and (vi) 259D3 Caterpillar Compact Track Loader (S/N CW920453) (collectively, the “Equipment”). Proof of Claim, Ex. B, C.

5. Konstruction is in default under the Security Agreement and the Debtor is in default under the Guaranty.

6. As set forth in the Proof of Claim, the balance due and owing to CAT Financial is \$425,910.52.

7. CAT Financial had no knowledge of this bankruptcy proceeding until February 2024.

8. On or about February 5, 2024, Debtor’s counsel contacted CAT Financial’s outside counsel to inform them that the Debtor had commenced a chapter 13 bankruptcy proceeding in this Court. A true and correct copy of that correspondence is attached hereto as **Exhibit 1**.

9. Until February 5, 2024, CAT Financial had not received any notice of this case, of the plan, or of the December 15, 2023 deadline for filing claims (the “Bar Date”).

10. CAT Financial respectfully requests that the Court grant it leave to submit the Proof of Claim after the Bar Date.

I make this declaration under penalty of perjury as being true and correct based on personal knowledge of CAT Financial's books and business records.

March 20, 2024

/s/ B. Erin O'Quinn
B. Erin O'Quinn, Litigation Paralegal
Caterpillar Financial Services Corporation

Exhibit 1

From: Hanley, Kelly

Sent: Friday, February 23, 2024 12:42 PM

To: Mike Assad <mike.assad@cibiklaw.com>

Subject: RE: Elizabeth Caymares (Contract #001-70086333) [WMIMAN-IWOVRIC.FID2617888]

Thank you, Mike. Will work on it on our end.

From: Mike Assad <mike.assad@cibiklaw.com>

Sent: Friday, February 23, 2024 11:47 AM

To: Hanley, Kelly <khanley@williamsmullen.com>

Subject: Re: Elizabeth Caymares (Contract #001-70086333) [WMIMAN-IWOVRIC.FID2617888]

Hi Kelly, sorry I missed you. If you file a proof of claim now, we can do a consent order allowing it. Does that work?

Sent from my iPhone

Mike Assad
Associate Attorney



Cibik Law, P.C.
1500 Walnut Street, Suite 900
Philadelphia, PA 19102
T: 215-735-1060 | Direct: [+12155579001](tel:+12155579001)
mike.assad@cibiklaw.com | cibiklaw.com

This message, including attachments, is confidential and may contain information protected by the attorney-client privilege or work product doctrine. If you are not the addressee, any disclosure, copying, distribution, or use of the

contents of this message are prohibited. If you have received this email in error, please destroy it and notify me immediately. Any tax advice contained in this message is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing, or recommending to others any tax-related matter(s) addressed here.

From: Hanley, Kelly <khanley@williamsmullen.com>

Sent: Friday, February 23, 2024 10:17:20 AM

To: Mike Assad <mike.assad@cibiklaw.com>

Subject: RE: Elizabeth Caymares (Contract #001-70086333) [WMIMAN-IWOVRIC.FID2617888]

Mike-

I've tried leaving a couple of messages for you. As you know, Caterpillar Financial Services Corporation was not listed on the schedules and did not receive notice of the bankruptcy. Checking in to see if you would consider amending the schedules and allow Caterpillar to file a late proof of claim. Thank you...my cell is 910-508-3821. Enjoy your weekend.



Kelly C. Hanley

Attorney

T 919.981.4008

[email](#) | [v-card](#) | [website](#)

301 Fayetteville Street, Suite 1700 | P.O. Box 1000 (27602) | Raleigh, NC 27601

NOTICE: Information contained in this transmission to the named addressee is proprietary and is subject to attorney-client privilege and work product confidentiality. If the recipient of this transmission is not the named addressee, the recipient should immediately notify the sender and destroy the information transmitted without making any copy or distribution thereof.

From: Mike Assad <mike.assad@cibiklaw.com>

Sent: Monday, February 5, 2024 7:53 PM

To: Hanley, Kelly <khanley@williamsmullen.com>

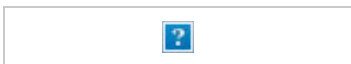
Subject: Elizabeth Caymares (Contract #001-70086333)

Hello,

Elizabeth Caymares received your recent default notice. Please be advised that she is a debtor in an active chapter 13 bankruptcy in the U.S. Bankruptcy Court for the Middle District of Pennsylvania filed on December 18, 2023, and docketed as #23-02305. Accordingly, all collection activity is stayed per the bankruptcy code.

Mike Assad

Associate Attorney



Cibik Law, P.C.

1500 Walnut Street, Suite 900

Philadelphia, PA 19102

T: 215-735-1060 | Direct: [+12155579001](tel:+12155579001)

mike.assad@cibiklaw.com | cibiklaw.com

This message, including attachments, is confidential and may contain information protected by the attorney-client privilege or work product doctrine. If you are not the addressee, any disclosure, copying, distribution, or use of the contents of this message are prohibited. If you have received this email in error, please destroy it and notify me immediately. Any tax advice contained in this message is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing, or recommending to others any tax-related matter(s) addressed here.

Williams Mullen Security Disclaimer, This message originated from an external source.

Williams Mullen Security Disclaimer, This message originated from an external source.